Supreme Court, U.S.
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NO._____

IN THE
Surpreme Court Of the United States

Edward V. Willett, Pro se PETITIONER.

99-4055 v.

State of Illinois, et al, Department
of Children And Family Services
And Daniel Byrens,
RESPONDENTS

On Petition for Writ of Certiorari To

UNITED STATES COURT OF APPEALS
For the Seventh Circuit, 99-4055
Chicago, Illinois 60604

PETITION FOR A WRIT OF CERTIORARI

s/Edward V. Willett,Pro se
Edward V. Willett,Pro se
PETITIONER
1412 Glen View Dr.
Yellow Springs, Ohio 45387
Telephone No.: (937) 767-9188

10 pp

QUESTION

1. The question is, in this case the United States Court of Appeals in its order, December 3, 1999, it does not appear that the District court issued a order disposing of plaintiff's claims against the defendants State of Illinois and Daniel Byrens. Court issued a order to Appellant, December 3, 1999 please see Appendix A.

2. Also see Judgment case and order 98 C 4715 Dated: November 9, 1999 signed by Hon. Charles P. Kocoras United States District Judge Amended Memorandum opinion and order disposing of this case. Please see Appendix B.

3. The United States Court of Appeals sent Appellant a memo December 21, 1999 that mandate issued on December 16, 1999 returned case to district court and the appeal is closed in this court. Please see Appendix c.

4. The Appellant filed notice of Appeal in District Court November 30, 1999. The Appeal was in the proper time frame. (Notice of Docketing Appeal) Please see Appendix D.

5. The United States Court of Appeals order to dismiss this case. Please see Appendix E.

6. Appellant request the recall of mandate that Appellant filed to dismiss.Appellant obeyed Court

QUESTION

order of December 3.1999 which was in error. Please see Appendix A.The recall mandate came before Hon. Michael S. Kanne Circuit, - Febuary 9, 2000.It was ordered that the motion is Denied. See Appendix F.

7. The United States Court of Appeal issued a Notice of Issuance of Mandate December 16, 1999. Please see Appendix G.

8. The United States Court of Appeals cannot extend or enlarge the time of appeal. Fed. P App. P. 26 (b) Please see Appendix A

PARTIES TO PROCEEDING

1 . Edward V. Willett, Pro SE
Petitioner 1412 Glen View Dr.
Yellow Springs, Ohio 45387
Telephone: (937) 767-9188

There is no parent or publicly held company or corporation owning 10% or more of corporation's stock. In fact there is no company or corporation.

2. State of Illinois "Et Al" - Respondent.
Illinois Attorney General Daniel J. Spillman
Department of Children and100 W. Randolph St.
Family Services- Respondent 13th Floor
Chicago, Il. 60601
Telephone: (312) 814-3313
3. John Goad -Respondent (See above)

4. Mary Ellen Eads- Respondent (See above)

5. Randy Roth- Respondent (See above)

6 Robert Kruger - Respondent (See above)

7. Kathy Glenney -Respondent (See above)

8. Barbara Strong - Respondent
Atty. Meliesa J. Auerbach
Cornfield & Feldiv

PARTIES TO PROCEEDING

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Suite 1400 Chicago, Il. 60602
(312) 236-7800

9. Dennis Hallevot - Respondent
Atty. Thomas G. Draths
Schuyler,Roche & Zwirner
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Chicago, 11. 60601
(312) 565 - 2400

10. Daniel Byrens-Respondent
Atty. Jeffrey E. KehlYelton, & Kehl, Ltd.
One east Wacker Dr.
Chicago, Il. Suite 3720
Telephone: (312) 832-9255

TABLE OF CONTENTS

Page

Questions Presented _____ (i -ii)

Parties To Proceeding _____ (iii-iv)

Table of Contents _____ (v-vi)

Table of Cited Authorites _____ (vii-viii)

Table of Appendices _____ (ix)

Opinions _____ 1

Statement of Juristiction continued _____ 2

Statement of Juristiction continued _____ 3

Statement of Juristiction continued _____ 4

Statement of Juristiction continued _____ 5

Statutory Provisions Involved _____ 6

Statutory Provisions Involved continued ____ 7-8

Statement of the Case _____ 9

Statement of the Case continued _____ 10

Statement of the Case continued _____ 11

TABLE OF CONTENTS

Reason for Granting Certiorari _____ 12

Reason for Granting Certiorari _____ 13

Conclusion _____ 14

TABLE OF AUTHORITIES CITED

CASES **PAGE**

United States District Court Northern District
Eastern Divitern Division
Edward V. Willett Pro Se
Plaintiff-Appellant

Case No. 98 C 4715 1a-2a-3a

State of Illinois , et al.,

Defendants

United States Court of Appeals
Edward V. Willett Pro se.

Case No 99-4055 1a-2a-3a

v.

States of Illinois, et al.,
Department of Children and Family
Services and Daiel Byrens. Defendants- Appellees

STATUTES AND RULES
Case No. 98-C-4715
Willett v. DCFS,1998WL867406(N.D.ILL.Dec,1998.
Section 704a of Title VII of the Civil Rights Actof
1964 Title. 6a

TABLE OF AUTHORITIES CITED PAGE

WE grant motion for summary judgment to DCFS. November 9, 1999. Hon. Charles P Kocoras, United States District Judge 32a

United States Court of Appeals Case No 99 4055

On Consideration of Motion to recall the mandate filed by Appellant. It is ordered that the motion is Denied. Hon. Michael S. Kanne, Circuit Judge 39a

United States Court of Appeals order Briefing suspended until further court order . 2a

Notice of Issuance of Mandate 41a

INDEX TO APPENDICES

		Page
APPENDIX A	ORDER U.S.C.A.	1a-2a-3a
APPENDIX B	MEMORANDUM OPINION AND ORDER	4a to 32a
APPENDIX C	MEMO MANDATE December 16, 1999	33a
APPENDIX D	NOTICE OF DOCKETING APPEAL	34a-35a -36a
APPENDIX E	ORDER DISTRICT COURT	37a-38a
APPENDIX F	Hon.Michael S. Kanne, Circut Judge U.S.C.A. ORDER	39a-40a
APPENDIX G	NOTICE OF ISSUANCE OF MANDATE	41a-42a
APPENDIX H	MISDEMEANOR COMPLAINT CIRCUIT COURT COOK COUNTY	43a-44a-45a

Opinions

Petitioner, Edward V. Willett respectfully requests that a writ of Certiorari be issued to review the judgement of the United States Court of Appeals for the Seventh Circuit in this case.

The opinion of the United States Court of Appeals for the Seventh Circuit was issued on December 16, 1999. The opinion and order of the United States District court for the eastern District of Illinois was issued on November 9, 1999. The order denying petition for rehearing was issued by the United States Court for the Seventh Circuit on December 16, 1999. Please see District Court order Appendix B and United States Court of Appeals Seventh Circuit. (Appendix C)

Statement of Jurisdiction

The judgement of the United States Court of Appeals for the Seventh Circuit was entered on December 16, 1999. The Court of appeals denied a timely petition for rehearing February 9, 2000 (Appendix.) 38

The jurisdiction of this court-is invoke under 28-U.S.C. §-12~4 (i)

1. Jurisdiction:Federal Question
2. Cause:29: 621 Job Discrimination (Age)
3. Nature of suit: 720
4. Jury damand:
5. Civil Docket for case #: 98 - CV-4715
6. United States District Court Northern District of Illinois (Chicago)
7. Willett v. Illinois, St of, et al
8. Assigned to Hon. Charles P. Kocoras.
9. Edward V. Willett,Pro Se
   Plaintiff-Appellant, Petitioner.
   1412 Glen View Drive
   Yellow Springs, Ohio 45387
   Telephone: (937) 767-9188
10. State of Illinois & Department of Children and Family Services (et al. (Defendants) Respondants.
    Attorney Daniel Jeremiah Spillman
    100 West Randolph Street13th Floor
    Chicago, Illinois 60601
    Telephone: (313) 814-3313

Statement of Jurisdiction

11. Daniel Byrens
Defendant.Respondant
Attornev Jeffrey Edward Kehl
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Chicago, IL. 60601
(312)832-9255

12. Barbara Strong
Defendant.Respondant
Attornev Melisa J. Auerbach
Cornfeild and Feldman
25 East Washington St. Suite 1400
Chicago, IL. 60602
(312)236-7800

13. Dennis Hallevot
Defendant.Respondant
Attornev Thomas G. Draths
Schulyer, Roche & Zwirner
130 East Randolf St. Suite3800
Chicago, IL. 60601
(312)565-2400

14. Date of Judgement order entered November 2, 1999 (please see Appendix A) Motion to dismiss filed by appellant on orders from appeals court. Dated December 3, 1999 , ordering Appellant to filed for dismissal of case because it did not appear that the district court issued an order Disposing of Appellant's

Statement of Jurisdiction

claim against defendants, State of Illinois, Daniel Byrens. Absent such an order, it appears that the appeal is premature.

15. The appeals court erred, district court issued amended memorandum opinion and order, November 9, 1999. (please see Appendix B)

16. A petition for a writ of Certiorari was timely because it was filed within the court 90 days after entry of order from the court of appeals.

17. Statutes -- Willett V. DCFS, 1998 WL 867406 (N.D. Ill. Dec.3 1998 Section 704a of Title VII of the Civil Rights Act of 1964(Title VII) See Willett V. DCFS.a998 WL 867406 (N.D. ILL. Dec. 3, 1998) Blumenthal V. United States (1947), Supreme Court fond that parties had agreed to sell liquor at prices exceeding the ceiling set by regulations of O.P.A. Having knowledge of the plan's general scope and common end, the respondents could be drawn together in a single "conspiracy". Ellen S. Podger & Harold J. Israel, White collar crime in a nutshell %@ (2ed.1997).

18. One of the respondents John Goad called a Tony Burns, who inturn called petitioner Edward V. Willett. Willett visited the offices of Dennis Hollevot Respondent, of Maryville Shelter, Chicago Illinios. Willet in

Statement of Jurisdiction

the office of Dennis Hollevot where a Daniel Byrens Respondant shook his fist in Petitioner face and stated if a child in petitioners mandate was hurt in any way, he Daniel Byrnes would run a missile through the Petitioner. "In a chain Conspiracy, the court looks to whether the parties serve as links in the chain.

19. The respondents have not testified in open court in the presence of the petitioner. Petitioner ask for jury trial, which has been denied.

20. Petitioner, in Circuit Cook County, Illinios, Respondant Daniel Byrnes, committed the offense of ASSAULT in that without lawful authority, knowingly raised his fist and came toward the petitioner stating that he would run a rocket through the petitioner thereby placing the petitioner in reasonable apprehension of receiving a battery. In violation of chapter, Illinios Revised Statutes. (Please See Appendix H)

Statutory Provision Involved

A.Federal Rule of Appellate Procedure 31:

B. Rule 31. Serving and Filing Brief.

1. (1) The Appellant must serve and file a brief within 40 days after the record is filed. The appellant must file a brief within 30 days after the brief is served., Please See Appendix B.

2. Petitioner filed a complaint withEqual employment opportunity Commission(EEOC), complained of unequal work loads denial of overtime and age discrimination. District court stated that Petitioner adequately plead a valid cause of action against DCFS for violations of Section 704a of Title VII of the Civil Rights Act of 1964 (Title VII) See Willett V. DCFS, 1998(WL 867406 (N.D.Ill. Dec.3 1998),

3. Petitioner worked for the Department and Children and Family Services for almost eight (8) years and DCFS never stated that Petitioner fail to comply with its policies and practices. That is why that DCFS action is a retaliatory discharge.

4. Petitioner has attended many hearings in this case. The respondents have not given testimony in open court.

Statutory Provision Involved

5. Petitioner complant to (EEOC) dealing with harassment the persons are: Mary Ellen Eads respondent, Randy Roth respondent, Robert Kruger respondent, and Kathy Glenney respondent.

6. John Goad respondant **(DCFS)** claimed Petitioner was dismiftsed from his job because he failed to comply with **(DCFS)** policies and practices. Please see Appendix B.

7. Chief Union Stewart Barbara'Stroyiq raspondent, Strong testimony will be no record or evidence that Petitioner failed to comply with **(DCFS) policies and** practices, in fact most of the harassment took place after Petitioner failed a complaint with Equal Opportunity Commission ("EEOC").A federal rule against an employer to retaliate against a employee who file a complaint with the EQUAL OPORTUNITY COMMISSION(EEOC) it is unlawfull to do so.

Title IIV of the Civil Rights Act of 1964, 42 U.S.C. - 2000-2(a) provides:
It shall be unlawful employment practice as an employer

1. to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with regard to his compensation, terms, condi

Statutory Provision Involved

tion or privileges of employment because of such individuals's race, color , religion, sex. or national origin.

2. to limit, segregate, or classify in any way which would deprive or lend to deprive any individual or employment opportunities or otherwise adversely affect his status as an employee, because of such individual race , color, religion, sex or national origin

42 U.S.C. - 1981 provides

(a) Statement of Equal Rights.

All persons within the jurisdiction of the United States shall have the right in every state and territory to make and enforce contracts to sue, be parties, give evidence, evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licences, and exactions of every kind and to no other.

STATEMENT OF CASE

1. Petitioner filed an appeal in the United States Court of Appeals for the Seventh Circuit this appeal was in the proper time fame. See Appendix B.

2. Petitioner in district court, unable to hire attorney because for the lack of money. Therefore unable to take deposition of the defendants.

3. Petitioner was a child Protector investgator for the stateof Illinois, Department of Children Services, in the office ofDennis Hallevot respondent Maryville Shelter Archdiocess of Chicago and Daniel ByrensRespondent. Both men said they were Department of Children and Family service employees. Dennis Hallevot and DanielByrens did not tell the truth.

4. Daniel Byrens respondent told Petitioner he has interest in the child in Petitioner investgation and if the child was hurt in any way he (Daniel Byrens) would run a rocket through Petitioner. I understand this to mean he will shoot Petitioner. Petitioner filed a assault offense Daniel Byrens without lawful authority, knowingly raised his fist and came toward Petitioner stating he would run a rocket through Petitioner, thereby placing Petitioner in reasonable apprehension of receiving a battery. Please see Appendix H.

STATEMENT OF CASE

5. Appendix B,page two states that Daniel Byrens have not been serve in this case.Dennis Hallevot of the Mary ville shelter interduce Byrens to Petitioner and it appears a writ of Habeas corpus and given to his Atty. Jeffrey E. Kehl, one East Wacker Dr. Chicago, Il.

6. Dennis Hallevot respondent stated to Petitioner that he did not know anything about the case Petitioner was sent to his office to investigate. Hallevot added that his boss Dir. Ferrow of Maryville Shelter told him to call The Department of Children and family **Service "HOT LINE"** and reported a child in the mandate with a problem. A few days before April 4, 1994 a Mr Tony Burns call Petitioner and stated a John Goad of The Department of Children & Family Service told him to contact Petitioner. It appears that we have a chain conspirecy at this point.

7. Mr. Dennis Hallevot respondent, Maryville Shelter Chicago Illinois is the only person that can identify the person in his office April 4, 1994 who stated he would run a rocket through Petitioner if child in mandate report was hurt in anyway.

8. Chain conspiracy a single conspiracy in which each person is responsible for a distinct act within the overall plan. Such as in this case, the petitioner was sent to Maryville Shelter Chicago, IL., by: The follow

STATEMENT OF CASE

ing respondents John Goad, Mary Ellen Eads, and Kathy Glenny.

9. Petitioner visited the office of Daniel Hallevot who stated he did not know anything about the case the petitioner was investigating. Hallevot added that his boss at Maryville Shelter Dir. Farrow told him to call, The Department of Children and Family Services "DCFS" and report a child in trouble.

10. Daniel Byrens Respondent, shook his fist in the petitioners face and stated if a child was hurt in any way, He Daniel Byrnes would run a missile through the petitioner. Several days before the above meeting in Dennis Hollevot's office, Petitioner received a telephone call from Tony Burns who stated that John Goad respondent, Department of children and family services told "Burns" to call petitioner. " In a chain conspiracy, the court looks to whether the parties serve as links in a chain.

11. In Blumenthal v. United States (1947), the Supreme Court found that the parties had agreed to sell liquor at prices exceeding the ceiling set by regulations of O.P.A. Having knowledge of the plan's general scope and common end, the respondents could be drawn together in a single conspiracy." Ellen S Podgor & Jerod H. Isreal, White Collar Crime in a Nutshell 52 (2ed. 1997)

12. Petitioner prays Supreme Court of the United States grants Petitioner's Petition for Writ of Certiorari and a jury trial in the case.

Reason for granting the Petition Writ of Certiorari

1. Petitioner pray that the United States Supreme court will grant Petition for Writ of Certiorari.

2. Motion for the appeal of case No. 98 C 4715 from the District court was filed in the proper time fame.

3. Judgment in civil case No. 93-C 4715 had been issued November 9, 1999 and signed by Charles P. Kocoras Uninted States DistrictJudge.

4. The order from United States Court of Appeals For the Seventh Circuit seem to be in error. Please see appendix A.

5. Appendix B, Judgment in a Civil case: Decision by Court, the action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been randered. Amended Memorandum Opinion and Order Signed by Charles P. Kocoras United States District Judge. Please see Appendix B.

6. Petitioner filed a Motion for Appeal of the District Court's decision/ on or about November 30,1999.

7. Petitioner motion for a petition for a writ of Certiorari calling up the record of a proceeding in District Court, the

Reason for granting the Petition Writ of Certiorari

review of record will show that justice was not serve. Petitioner did not have money for an Attorney or money to take depositions from the defendants.

8. Daniel Byrens defendant in this case, committed an assualt up on Petittioner in the office of Dennis Hallevot defendant in this case. Hallevot was a witness to the crime of assualt at The Maryvill Shelter Chicago, Illinois. Appendix H.

9. Petitioner lack of Attorney, Justice was not served.

10. Page 6a Appendix B District Court's opinion & order stated that petitioner adequately plead a valid cause of action against DCFS for the violations of Section 704a of Title VII of the Civil Rights Act of 1964. See: Willett v. DCFS, 1998 WL 867406 (N.D. Il. 1998)

11. The Amended Memorandum Opinion and order of the court issued November 9, 1999. The court stated the issues had been heard and a decision has been rendered. the court failed to allow Petitioner and respondents to be heard before a jury as requested by Petitioner.

CONCLUSION

Because the decision by the Seventh Circuit of Appeals conflicts with prior rulings of this court, cases that are timely filed as this case was, the important issues of civil rights and the assualt of a State of Illinois Investigator, the petitioner respectfully requests that the petition for writ of certiorari be granted.

Respectfully submitted,

s/Edward V. Willett,Pro se
Edward V. Willett,
Petitioner, Pro se
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Yellow Springs, Ohio 45387
Phone: (937) 767-9188

APPENDIX

APPENDIX A

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

December 3, 1999

By the Court:

EDWARD V. WILLETT, Plaintiff-Appellant, No. 99-4055 v. Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES and
No. 98 C 4715
DANIEL BYRENS,
DENNIS HALLEVOT
Defendants-Appellees. Charles P. Kocoras, Judge.

ORDER

A preliminary review of the short record indicates that the order appealed from may not be a final appealable judgment within the meaning of 28 U.S.C. § 1291.

Generally, an appeal may not be taken in a civil case until a final judgment disposing of all claims against

APPENDIX A

all parties is entered on the district court's civil docket pursuant to Fed. R. Civ. P. 58. See Cleaver v. Elias, 852 F.2d 266 (7th Cir. 1988).

It does not appear that the district court issued an order disposing of plaintiff's claims against defendants State of Illinois and Daniel Byrens. Absent such an order, it appears that this appeal is premature. See West Lafayette Corp. v. Taft Contracting Corp., Inc., 178 F.3d 840, 842-43 (7th Cir. 1999) (release of claim good reason to enter judgment but not a substitute for action by the district court. Accordingly,

IT IS ORDERED that plaintiff and defendants both file, on or before December 17, 1999, a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction. A motion for voluntary dismissal pursuant to Fed. R. App. P. 42(b) will satisfy this requirement. Briefing shall be suspended pending further court order.

NOTE: Caption document ""JURISDICTIONAL MEMORANDUM." The filing of a Circuit Rule 3(c) Docketing Statement does not satisfy your obligation under this order.

AO 450(Rev. 5/85)Judginent in a Civil Case

EDWARD V. WILLETT
V.
STATE OF ILLINOIS,et al

United States District Court
Northern District of Illinois
Eastern Division

JUDGMENT IN A CIVIL CASE

Case Number: 98 C 4715

JuryVerdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that defendant State of Illinois Department of Children and Family Services ("DCFS") motion for summary judgment is Granted.

Michael W. Dobbins, Clerk of Court

s/Theresa B. Kinney
Theresa B. Kinney,

Date: 11/2/1999
Deputy Clerk

APPPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EDWARD V. WILLETT,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	98 C 4715
)		
STATE OF ILLINOIS, et al.,	)	
	)	
Defendants.	)	

AMENDED MEMORANDUM OPINION AND ORDER

CHARLES P. KOCORAS, District Judge:

Before the court is the motion for summary judgment pursuant to Federal Rule of Civil Procedure 56(c) of defendant State of Illinois Department of Children and Family Services ("DCFS"). For the reasons set forth below, we grant DCFS' motion.

APPPENDIX B

BACKGROUND

Plaintiff Edward V. Willett ("Willett"), a former employee of DCFS, alleges he was discriminated against by DCFS after he filed a complaint in June 1993 with the Equal Employment Opportunity Commission ("EEOC") and internally complained of unequal workloads, denial of overtime, age discrimination and harassment. DCFS dismissed Willett from his job as a DCFS investigator in September 1994, claiming he failed to comply with its policies and practices. In September 1994, Willett filed a charge of retaliatory discharge with the EEOC, and in 1998 filed suit based on this second EEOC complaint.

In the wake of several orders of this Court granting motions to dismiss in this case, and Willett's failure to serve Defendant Byrnes, the only remaining party is DCFS. Willett's complaint alleges that DCFS unlawfully retaliated against him for the EEOC complaint he filed

APPPENDIX B

in 1993. We have previously ruled that Willett has adequately plead a valid cause of action against DCFS for violations of Section 704a of Title VII of the Civil Rights Act of 1964 ("Title VII"). See Willett v. DCFS, 1998 WL 867406 (N.D. Ill. Dec. 3, 1998).

Following the close of discovery, DCFS filed this motion for summary judgment claiming that it terminated Willett's employment because he did not comply with various personnel rules and thus his discharge is justified. DCFS also points out that Willett did not perfect service upon DCFS.

In response, Willett filed an assortment of documents including: (1) an unsigned waiver of service directed to DCFS; (2) his complaint; (3)a motion to set a trial date; (4) various motions seeking discovery; (5) a statement of facts in opposition to summary judgment; (6) his motion to deny summary judgment; (7) his answer to Defendant's Exhibits; (8) his plea for relief.

APPPENDIX B

(9) a statement of the position of his union contained in Exhibit Y; and (10) exhibits (a)-(y). We initially note that the form of the pleadings is improper, and are often irrelevant and nonresponsive to the motion at bar. However, the chief difficulty with the pleadings filed by Willett is that they are incomprehensible. After sifting through these cryptic documents for some time, we believe we have the gist of his argument, although he does not support it with any pertinent documentation or any case law. To adequately address DCFS' motion, however, we shall frame his argument with respect to the applicable law. Before turning to the specific facts of the case and the merits of DCFS' motion, we wish to address the various "motions" brought by Willett. First, we deny Plaintiff's Motion to Set a Trial Date because it is mooted by the outcome of this motion for summary judgment. Second, Willett's various discovery motions are untimely and improper. The discovery cut-off for this case was on March 3,1999.

APPPENDIX B

If Willett required more time to complete discovery, he could have filed a motion to extend discovery with the Court. Also, while discovery was being conducted, Willett could have served these documents on DCFS in the form of discoveryrequests, assuming he first obtained service of process upon them as well. Waiting until the midst of the briefing of an adverse summary judgment motion to file these documents leads to the conclusion that Willett filed them merely to avoid having his case disappear. In addition, it is improper pleading practice for Willett to style his requests as motions that he filed with the Court. In light of these circumstances, and the extreme tardiness of Willett's motions, we hereby deny: (1)Plaintiff's Motion for Defendant to Provide Plaintiff with the Home Address and Telephone Numbers of the Following Employees of DCFS;

(2) Plaintiff's Motion Defendant Provide Plaintiff Payroll History of Plaintiff, and Following DCFS Employees;

APPPENDIX B

(3) Plaintiffs Motion Defendant Provide Plaintiff with Copy of Kathy Glenney's Report of Incident in Maryville Office April 4, 1994;

(4) Plaintiff's Motion Defendant Provide Plaintiff Missing Pages in Defendant's Statement;

(5) Plaintiff's Motion to Subpoena the Following Persons as Witness; and

(6) Plaintiff's Motion Defendant Provide Plaintiff with Copies of All Letters Communications from Named Individuals.The pertinent facts surrounding Willett's retaliation claim are as follows. DCFS is an agency of the State of Illinois responsible for administrating the child welfare system for the State. On June 15, 1987, Willett began working for DCFS as a Child Protective Investigator ("CPI"). As a CPI, Willett regularly investigated allegations of child abuse, neglect, and sexual abuse. His job required him to take appropriate action to protect children from enduring additional abuse and

APPPENDIX B

to initiate DCFS' casework, which would then be utilized in hearings to obtain further, more permanent protection for abused children. DCFS required that he be available to rapidly respond within twenty-four hours of the initial report of abuse or neglect and make a preliminary determination of whether the child was in danger of suffering further abuse.

Willett's employment with DCFS ended on September 23, 1994, when he was involuntarily discharged for violating Rule 303.350 of the Illinois Administrative Code ("Rule 303.350"), which states that "absence of an employee for five consecutive workdays without reporting to the operating agency may be cause for discharge. " In addition, DCFS claims that in the seven months prior to dismissing Willett, it engaged him in repeated discussions, during which he agreed to performance goals and directives. Because Willett failed to meet these goals (primarily Willett's failure to timely

APPPENDIX B

complete overdue investigation work) and he subsequently failed to report to work from July 14, 1994 through July 22, 1994 without notifying DCFS of his absence, DCFS terminated his employment. Willett claims that DCFS' activities during this period were mere pretext for its decision to harass and eventually terminate his employment because he filed charge no. 210932900 with the EEOC on June 14, 1993, claiming that he was discriminated against because of his race and age. DCFS admits that it was aware of Willett's EEOC complaint, but his subsequent termination was justified by his prolonged absence from work without notifying anyone at DCFS. On August 30, 1994, EEOC dismissed Willett's charges and issued him a right to sue letter.

DCFS claims that it decided to terminate Willett's employment based on his unauthorized work absence from July 14, 1994 through July 22, 1994. The events

APPPENDIX B

leading up to his absence show that in late April of 1994, Willett had sought medical attention for untold leg ailments. Willett subsequently underwent a blood flow-test. On July 12, 1994, Willett learned that the test results were negative. The following day, Willett telephoned Robert Kreuger of DCFS in the early morning to inform him that he would not be working that day. At the time, Willett did not offer Kreuger an explanation for his absence. However, in his deposition nearly five years later Willett claimed that he could not work due to arthritis ailments. At no time did Willett inform Kreuger, or any other DCFS employee that he would not be at work from July 14th through July 22nd. When Willett eventually reported to work on July 25th, he presented DCFS with a note from Dr. O'Neal, a urologist, which explained that Willett had been incapacitated and under his medical care during the entire absence. The note was a "form letter" with the dates and Willett's name filled

APPPENDIX B

in by hand. However, Willett's medical record does not support this claim. Instead, his chart shows that: (1) Willett complained of leg pain on July 5th; (2) Dr. O'Neal conveyed the blood flow test results to him on July 12th, and Willett's knee had improved by August 5th. There also is an illegible one word entry for July 25th. Nowhere in Willett's medical records does it state that Dr. O'Neal told Willett he should not work between July 14th and 22nd. DCFS subsequently rejected the note as an insufficient justification for Willett's lengthy absence Page because it did not contain any diagnostic information and was a "form letter."Upon his return to work, Willett claimed that at approximately 6:45 a.m. on July 14th and 15th he had attempted to inform DCFS that he was sick, but the night staff would not accept any messages. However, Willett's deposition testimony cast doubt on his claim when he stated that he did not call DCFS on these dates. Further, John Goad, the Associate

APPPENDIX B

Deputy Director of Child Protective Services for DCFS testified at Willett's grievance hearing that Willett admitted to Goad he had not been too sick to inform DCFS that he would not be working on the dates he was absent. On September 23, 1994, DCFS fired Willett for failing to follow DCFS procedures by not alerting them that he would not be working for a period of time violating Rule 303.350.

Following his discharge Willett filed a grievance which was heard on August 23, 1995. On September 10, 1995, the arbitrator issued his decision finding that there was just cause for Willett's termination because Willett knew or should have known that he must inform DCFS every day he would be absent. The arbitrator also found no merit to Willett's civil rights claims.

On December 2, 1994, Willett filed a second charge with the EEOC, charge no. 210950952, in which he claimed DCFS terminated his employment in retalia

APPPENDIX B

tion for filing his previous EEOC complaint with the EEOC, dated June 14, 1993. The EEOC thereafter dismissed both charges and issued Willett a right to sue letter. It is based on his second EEOC charge, no. 210950952, that Willett filed suit against DCFS with this Court, and which DCFS challenges with its motion for summary judgment.

LEGAL STANDARD

Summary judgment is appropriate if the pleadings, answers to interrogatories, admissions, affidavits and other materials show that "there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. " Fed.R.Civ.P. 56(b). "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. " Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct.

APPPENDIX B

2505, 2510, 91 L.Ed.2d 202 (1986). The party seeking summary judgment carries the initial burden of showing that no such issue of material fact exists. Pursuant to Rule 56(b), when a properly supported motion for summary judgment is made, the adverse party must set forth specific facts showing that there is a genuine issue of material fact and that the moving party is not entitled to judgmentas a matter of law. See Anderson, 477 U.S. at 250.

In making our determination, we are to draw inferences from the record in the light most favorable to the non-moving party. We are not required to draw every conceivable inference, but only those that are reasonable. See DeValk Lincoln Mercury, Inc. v. Ford Motor Co., 811 F.2d 326, 329 (7th Cir. 1987). The nonmovant may not rest upon mere allegations in the pleadings or upon conclusory statements in affidavits; rather, the party must go beyond the pleadings and

support his contentions with proper documentary evidence. See Celotex Corp. v. Catrett, 477 U.S. 317, 324, 106 S.Ct. 2548, 2553, 91 L.Ed.2d 265 (1986). Rule 56 mandates the entry of summary judgment against a party who fails to establish the existence of an element essential to that party's cause of action. See Celotex, 477 U.S. at 422. It is with these principles in mind that we turn to the merits of DCFS' motion.

DISCUSSION

Willett claims that when DCFS violated Title VII of the Civil Rights Act of 1964 42 U.S. C. §§ 2000e et seq, when it terminated his employment in retaliation for his filing a complaint with the EEOC in June of 1993. Title VII provides it shall be an unlawful employment practice for an employer to discriminate against any of his employees . . . because he has made a charge, testi

APPPENDIX B

fied, assisted, or participated in any manner in any investigation, proceeding, or hearing under this subchapter. " 42 U.S.C. § 2000e-3(a). In making our determination of whether summary judgment is warranted on a retaliatory discharge claim, we utilize and apply the McDonnell Douglas burden shifting analysis, which mirrors the analysis for gender discrimination claims. See Samuelson v. Durkee/French/Airwick, 976 F.2d 1111, 1114 (7th Cir. 1992); Collins v. Illinois, 830 F.2d 692, 702 (7th Cir. 1987); Jennings v. Tinley Park Commty. Consolidation Sch. Dist. No. 146, 796 F.2d 962, 966 (7th Cir. 1986); Klein v. Trustees of Indiana University, 766 F.2d. 275, 280-81 (7th Cir. 1985). First, plaintiff must prove a prima facie case of discrimination by showing: (1) he engaged in protected opposition to Title VII discrimination or participated in Title VII proceedings; (2) he suffered an adverse action by defendant subsequent to participation; and (3) there is a causal connection

APPPENDIX B

between the adverse employment action and the protected actions of plaintiff. See Samuelson, 976 F.2d at 1114-15. Summary judgment is warranted if plaintiff fails to present evidence from which a reasonable jury could conclude that any of the elements were met. See Greenslade v. Chicago Sun-Times, Inc., 112 F.3d 853, 863 (7th Cir. 1997). If plaintiff fulfills his burden, the employer must articulate a legitimate, non-discriminatory reason for plaintiff's firing, thus shifting the burden to plaintiff to prove that the reasons the employer offered were a pretext for discrimination. See McDonnell Douglas, 411 U.S. at 802. Willett claims he was fired for filing a complaint with the EEOC prior to his dismissal. In support he tenders to the Court his EEOC claim, along with DCFS' response. Thus, he can show that he participated in Title VII proceedings and suffered the adverse action of having his employment terminated by DCFS subsequent to his participation, the first two elements of

APPPENDIX B

a prima facie case. As with most retaliation claims, the formidable task before Willett is to tender evidence to the Court showing a causal connection between the adverse employment action (i.e. being fired) and his protected actions (i.e. filing his EEOC charge). In our prior opinion on DCFS' Rule 12(b)(6) challenge to Willett's complaint, we held that Willett had sufficiently alleged such facts to properly plead a retaliatory discharge action under federal notice pleading. However, in response to a summary judgment motion, Willett bears a different burden. It is axiomatic that in attempting to ward off an adverse summary judgment motion Willett may not rely on mere allegations, but must support his contentions with admissible evidence. See Celotex, 477 U.S. at 324.

Willett does not meet this burden, and summary judgment is appropriate. In support of his arguments, Willett does not tender any evidence supporting his allegations that his firing was in retaliation for filing an

APPPENDIX B

EEOC claim. Rather, the only proof supporting his contention is his deposition testimony that he heard he was retaliated against through "the rumor mill. " Whether called the "rumor mill, " the "coconut telegraph, " or the "grapevine, " the result is still the same. Unsubstantiated hearsay from unknown sources is patently insufficient to achieve the denial of summary judgment and be awarded a trial on the merits. See Rand v. CF Inds., Inc., 42 F.3d 1139, 1146 (7th Cir. 1994) ("inferences and opinions must be grounded on more than flights of fancy, speculations, hunches, intuitions, or rumors"). To clear this initial hurdle, Willett needed to tender affidavits, deposition testimony, or documents evincing that his firing was in retaliation for filing his EEOC discharge. Under McDonnell Douglas his failure to do so by itself warrants the imposition of summary judgment. Willett did attach to his response papers various letters from

APPPENDIX B

the EEOC and from DCFS concerning his allegations that Kathy Glenney, Willett's supervisor, retaliated against him in the fall of 1993 by telling one of Willett's clients that he was incompetent.

The letters, however, actually refute his claim by showing that EEOC and DCFS both took steps to investigate Willett's claim, but Willett refused to identify the unnamed client, or provide any other proof of retaliation, other than unsubstantiated hearsay.

With regards to his lawsuit against DCFS, Willett has taken a similar approach. He has alleged a proper cause of action against DCFS, but failed to provide a stitch of evidence from which we may infer retaliation, other than his allegations and statements he attributes to unknown, unnamed, and undeposed witnesses. This does not suffice and summary judgment is granted to DCFS. Even if Willett had tendered sufficient evidence to establish a

APPPENDIX B

prima facie retaliation claim, we believe that DCFS has articulated a legal and nondiscriminatory reason for terminating Logan's employment, and he cannot prove that this reason is mere pretext, primarily because he has again failed to offer the Court any evidence. Thus, as discussed in more detail below, summary judgment is likewise warranted for these reasons. We must first determine whether DCFS has articulated a valid nondiscriminatory reason for discharging Willett. When it made the decision to fire Willett, DCFS had been meeting with him for nearly one year about various issues relating to his performance. Specifically, DCFS had informed Willett that his performance was substandard with respects to completing within the sixty day department requirement his outstanding investigations of potentially abused or neglected children. In other words, Willett was not performing the essential functions of his job. We cannot escape the fact that Willett's subpar performance of his duties would

not carry with it the potential of a mere financial loss to his employer. Rather, by failing to promptly perform his investigations under DCFS' mandated timeline, Willett was playing with lives; and even more egregiously, the lives of those members of our society requiring the most protection: abused children. Every moment he delayed brought with it the potential that a case being constructed by DCFS on behalf of an abused or neglected child could be prejudiced or fall apart entirely. Memories may falter; physical evidence may disappear or become altered; witnesses may be contacted and influenced by perpetrators. Clearly, DCFS had as strong of an interest in Willett performing his work in an efficient and prompt manner as may be found for an employer anywhere throughout the work force. Every moment he delayed meant that it became more and more possible that a case would fail and an abused child would be returned to the abuser, which would be tantamount to sentencing the child to

APPPENDIX B

further, and possibly increased, physical, sexual, and mental abuse. By attempting to correct Willett's performance deficiencies, DCFS was acting to head off any potential case spoliation that could arise due to Willett's seeming lack of diligence. In doing so, DCFS was fulfilling its duty to take action to protect abused children from the potential risk of being needlessly returned to their tormentor due to the performance deficiencies of its own employee unquestionably an appropriate reason for pre-termination performance discussions. This does not mean that Willett had to adhere to a higher standard of work performance. It simply means that DCFS had a legitimate basis for discussing the quality of his employment, due to the potential gravity of any deficient performance. Thus, we believe that DCFS' professed reasons for undertaking its pre-termination discussions with Willett of his performance deficiencies were proper and nondis

APPPENDIX B

criminatory. These same factors apply to DCFS' interest in having its employees inform someone when they will not be reporting to work and its interest in being able to terminate the employment of those employees who for five straight days fail to do So. By failing to show up at work Willett was unable to perform the essential functions of his job. See Waggoner v. Olin Corp., 169 F.3d 481, 484-85 (7th Cir. 1999). Regular and predictable employee attendance is an essential component of nearly every job. See Hypes v. First Commerce Corp., 134 F. 3d 721, 726-27 (5th Cir. 1998). Willett's actions are aggravated by his failure to even notify DCFS, his employer, that he would not be showing up for work for over eight days. Even if he did phone the night staff and they refused to take a message, he was bound to call later to inform his supervisor, or some responsible party, that he would not be coming in to work. His complete failure placed

APPPENDIX B

DCFS in the difficult predicament of attempting to cover all of the complaints it received, while being understaffed and unable to plan for his absence. Of even more paramount concern is the effect of Willett's lack of notice to DCFS on the abused and neglected children looking to DCFS for protection and assistance. By failing to afford DCFS the opportunity to adjust for his extended absence Willett prejudiced its ability to properly respond to reports of child abuse or neglect. His actions carried with them the potential that a DCFS investigator would not be able to reach every victim as needed. Thus, Willett's actions greatly increased the likelihood that an abused child in a situation that threatened her physical or mental well-being, if not her life, would not be quickly removed from the reach of her tormentor. When multiplied over the eight day span of Willett's unexplained and unexcused absence the potential for tragedy

resulting from his absence was considerable and was an appropriate basis for his termination. Thus, we believe that DCFS has set forth a valid nondiscriminatory reason for firing Willett, thus shifting the burden to Willett to present evidence that the reasons upon which DCFS based its decision to terminate him were a pretext for discrimination. In the context of McDonnell Douglas burden shifting analysis, pretext "means a lie, specifically a phony reason for some action. " Jackson v. E.J. Brach Corp. 176 F.3d 971, 983 (7th Cir. 1999) (quoting Russell v. Acme-Evans Co., 51 F.3d 64, 68 (7th Cir. 1995). Pretext may be established by direct evidence showing it is more probable than not that the employer fired plaintiff for a discriminatory reason. Jackson, 176 F.3d at 983 (quoting Sarsha v. Sears Roebuck & Co., 3 F.3d 1035, 1039 (7th Cir. 1993). Pretext may also be established by indirect evidence that the tendered nondiscriminatory

APPPENDIX B

basis for firing plaintiff is not credible. Jackson, 176 F. 3d at 983. Indirect evidence of pretext consists of "demonstrating that the reasons are factually baseless, were not the actual motivation for the discharge, or were insufficient to motivate the discharge. " Either way, to defeat an adverse motion for summary judgment, plaintiff must "proffer significantly probative admissible evidence showing that the employer's articulated reason for the discharge was a pretext for discrimination. " King v. Preferred Technical Group, 166 F.3d 887, 892 (7th Cir. 1999). Summary judgment is appropriate when plaintiff does not offer any evidence that the employer's stated reason for his termination was a lie, and there is no evidence that the employer's decision was not truly motivated and genuine. Plair v. E.J. Brach & Sons, Inc., 105 F.3d 343, 350 n.3 (7th Cir. 1997). Plaintiff faces a heavy burden in proving pretext. "When an employer

articulates a reason for discharging the plaintiff not forbidden by law, it is not [the court's] province to decide whether that reason was wise, fair, or even correct, ultimately, so long as it truly was the reason for the plaintiff 's termination. " Brach V. Brock Confections. Inc., 109 F.3d 406, 411 (7th Cir. 1997); see also Bahl v. Royal Indemnity Co., 115 F.3d 1283, 1292 (7th Cir. 1997) (courts do not assume the role of a "super-personnel department reviewing the business decisions of employers"). The only issue is whether the employer honestly believed at the time of termination the reasons it gave for discharging plaintiff. Bahl, 115 F. 3d at 1292. In his response brief, Willett does not point to any evidence that DCFS' decision to fire him was not truly motivated, but was a pretext for discrimination. Instead, Willett makes conclusory arguments in support of which he does not offer any direct or indirect evidence demonstrating that DCFS

APPPENDIX B

did not believe the reasons it stated in support of its decision to fire him. Willett's primary claim is that he heard through the "rumor mill" that he was terminated for

improper reasons. However, he does not present the testimony of any witness, in any form, to the Court in support of his contention. As such, he has not met his burden and a reasonable jury could not find that DCFS' stated reason for firing him was pretext. For this reason also, we grant summary judgment to DCFS.

APPPENDIX B

CONCLUSION

For the reasons set forth above, we grant DCFS' motion for summary judgment. We also deny all of the outstanding motions of Plaintiff Edward V. Willett.

s/Charles P. Kocoras
Charles P. Kocoras
United States District Judge

Dated: November 9, 1999

[1] The facts utilized in this opinion are culled from DCFS' Statement of Facts filed pursuant to Former Local Rule 12(m), now Local Rule 56. 1. While Willett attempted to respond to these facts, and alleges that there are discrepancies, Willett fails to support his claims with any supporting evidence. Because he is appearing pro se, we have attempted to find support for his claims in the aggregate exhibits before us. Finding no support for Willett's claimed facts, nor any evidence challenging DCFS' factual rendition, we accept the latter facts as uncontradicted and true.

APPPENDIX C

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Gina J. Agnello
Clerk
312-435-5850

Re: 99-4055

Dear Sir or Madam,

I am returning these documents to you unfiled.

The mandate of this court issued on 12-16-99 which returned the case to the District Court and closed the appeal in this court. The only filing we could accept in this appeal at this time would be a motion to recall the mandate.

Sincerely,

Pro Se Clerk

A

APPENDIX D

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Appeal No.: 99-405

NOTICE OF DOCKETING APPEAL

TO: Edward V. Willett
1412 Glen View Drive
Yellow Springs, OH 45387-0

Date: December 1, 1999
Counsel of Record for the following Appellant(s):
(This court's practice is to only list the first five parties per side.)

Edward V. Willett
Caption:
EDWARD V. WILLETT,

V.

Plaintiff - Appellant

STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES and DANIEL BYRENS,

APPENDIX D

Defendants - Appellees

District Court Information:

No. 98 C 4715
Judge Charles P.Kocoras
Northern District of Illinois, Eastern Division

Date Notice of Appeal filed in District Court:
11/30/99
Date Appeal docketed in Court of Appeals:
12/1/99

Current Fee Status:

Pending Deadlines:

pd
Fee:

Appellant's Brief:	1/10/00
Docketing Statement:	12/7/99
Transcript Information Sheet:	12/13/99

NOTE: This notice is issued to counsel of record, in furtherance of the revised Circuit Rule 3(d),to provide necessary information regarding this appeal. Please verify this notice for accuracy. Counsel are encouraged to provide a fax and/or e-mail address to the court. If

APPENDIX D

any corrections are necessary, please indicate those corrections on thisnotice and return it to the Clerk's Office within ten days. THIS NOTICE **SHALL NOT** ACT AS A SUBSTITUTE FOR MOTIONS FOR NON-INVOLVEMENT/SUBSTITUTION OF COUNSEL. COUNSEL ARE STILL REQUIRED TO FILE THE APPROPRIATE MOTIONS.
(1229-032897)
APPENDIX D

APPENDIX E

UNITED: STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Michael W. Dobbins CLERK

Edward V Willett
1412 Glen View Dr.
Yellow Springs, OH 45387

Case Number: l.-98-cv-04715

Title: Willett v. IL, St of

Assigned Judge: Honorable Charles P. Kocoras

MINUTE ORDER of 1/26/00 by Hon. Charles P. Kocoras : Plaintiff's motion for relief of actual damages for loss of salary and employment benefits, punitive damages, reinstatement to his position and restoration of all employment benefits and attorney fees and costs [76-1] and request for clarification is denied [78-1] as the court is without jurisdiction. Mailed notice This docket entry was made by the Clerk on January 27, 2000
ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by ICMS, the automated docketing system used to maintain the civil and criminal

APPENDIX E

dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.
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APPENDIX F

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

February 9, 2000

Before

Hon. Michael S. Kanne, Circuit Judge

EDWARD V. WILLETT,
Plaintiff-Appellant,
No. 99-4055 V.
STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES and DANIEL BYRENS,
Defendants-Appellees.

Appeal from the United States District Court for the Illinois, Eastern Division.
No. 98 C 4715
Charles P. Kocoras, Judge.

ORDER

APPENDIX F

On consideration of the motion to recall the mandate filed by appellant on February 2, 2000,

IT IS ORDERED that the motion is DENIED.

APPENDIX G

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

NOTICE OF ISSUANCE OF MANDATE

DATE: December 16, 1999

TO: Michael W. Dobbins
United States District Court
Northern District of Illinois
219 S. Dearborn Street
Chicago, IL 60604

FROM: Gino J. Agnello, Clerk

RE: 99-4055
Willett, Edward V. v. State of Illinois
98 C 4715, Charles P. Kocoras, Judge

Herewith is the mandate of this court in this appeal. A certified copy of the opinion/order of the court shall constitute the mandate.

The record that was filed with this court in this cause will be returned at a later date.

Copies of this notice sent to: Counsel of record

APPENDIX G

[ ] United States Marshal

[ ] United States Probation Office

Please acknowledge receipt of these documents on the enclosed copy of this notice.

Received above mandate from the Clerk, U.S. Court of Appeals for the Seventh Circuit.

Date: December 20, 1999 (1203-052495)

s/Edward V. Willett Pro se
Edward V. Willett Pro se

APPENDIX H

_____ ___ _____ ____ _____

(Court Branch) (Date)

Misdemeanor Complaint

_____

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
Plaintiff

NO._____

Daniel L. Barnes

Defendant

---Edward Willett---Complanant, now appears be:
(Complainant's Name Printed or Typed)

The Circuit Court of Cook County and states that
---Daniel L. Barnes--- Has, on or about
(Defendant)

---4 april 94 ---at---Chicago Il. Cook County---
(date) (place of offense)

committed the offense of ---Assault---
---in that without lawful authority, knowingly raised his fist and came toward Edward Willett stating he would run a rocket through thereby placing him, Edward Willett in reasonable apprehension of receiving a battery.---in violation of Chapter---720--Section---

APPENDIX H

ILLINOIS REVISED STATUTES

s/Edward willett

STATE OF IILINOIS (Complainant's Signature)

COUNTY OF COOK (Comlainant's Address/Ph#)

FILED APRIL 5-1994
AURELIA PUCINSKI

(Rubber Stamp)

Edward Willett (complainant's NameTyped)

being first duly sworn on----------his oath, deposes and says that he has read the forgone complaint by him subscribed and that the same is true. s/Edward willett (Complainant's Signature)

Subscribed and to before me ----
AURELIA PUCINSKI----------
(Rubberstamp)
s/R O----------
(Clerk)

I have examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied that there is probable cuase for filing same. Leave is given to file said complaint.

APPENDIX H

Summons issued,
Judge.....Judge.....
or
Warrant issued. Bail set
at,.....
or
Bail set
at.....Judge.....

Judge

CLERK OF THE COURT COOK COUNTY